

12.545 USE OF FORCE

Reference:

Graham vs. Conner, 490 US 386, 396 (1989)

Tennessee vs. Garner, 471 US 1 (1985)

Manual of Rules and Regulations - 1.22, 1.23, 1.24, 1.25, 2.12, 2.26A&B, 4.05

Procedure 12.140 - Canine Operations

Procedure 12.170 - Civil Disturbance Operation Procedure

Procedure 12.550 - Discharging of Firearms by Police Personnel

Procedure 12.554 - Investigatory Stops

Procedure 12.600 - Prisoners: Securing, Handling, and Transporting

Procedure 12.905 - Fingerprinting and Photographing of Juveniles

Procedure 15.100 - Citizen Complaints

Definitions:

Actively Resisting - when the subject is making physically evasive movements to defeat the officer's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.

Choke Holds - the courts could consider a choke hold or other similar type holds as deadly force. Choke holds are prohibited unless a situation arises where the use of deadly force is permissible under existing law and Department policy. The use of any type choke hold to prevent the swallowing of evidence is prohibited.

Crowd Management - the observing, monitoring, and facilitating the activities of persons assembled.

Crowd Control - the use of police action to stop the activities of persons assembled.

Deadly Force - force likely to cause, or capable of causing, death.

Escorting - the use of light pressure to guide a person or keep a person in place.

Force - any physical strike, instrumental contact with a person, or any significant physical contact that restricts movement of a person. The term includes, but is not limited to the use of: firearms, Tasers, chemical irritant, choke holds or hard hands, the taking of a subject to the ground, or the deployment of a canine. The term does not include escorting or handcuffing a person with no or minimal resistance.

Hard Hands - the use of physical pressure to force a person against an object or the ground, use of physical strength or skill that causes pain or leaves a mark, leverage displacement, joint manipulation, pain compliance, and pressure point control tactics.

Original documents – photographs, MVR/DVR tapes, and any documents that are handwritten or contain an original signature.

Serious Use of Force - any action that involves: a critical firearm discharge; the use of deadly force; a baton strike to the head; or a use of force in which the person is seriously injured, or requires hospital admission, with the exception of individuals admitted for psychiatric evaluation not suffering a serious injury.

Self-Defense - the act of protecting oneself or another from physical harm or serious physical harm.

Serious Injury/Serious Physical Harm to Persons - any of the following:

- Any physical harm that carries a substantial risk of death.
- Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity.
- Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement.

Use of Force in Crowd Management and/or Control - Officers will not initiate the use of force or chemical irritant against crowds or a group of individuals except when reasonable and necessary to protect the officer, the subject, or another party from a risk of death or physical harm; or is necessary to effect the arrest of an actively resisting subject; or to prevent the escape of that subject.

Officers encountering crowds will evaluate the situation and determine if there is a current or future need requiring crowd control or crowd management. Prior to police action, the officers will immediately summon a supervisor to the scene. If crowd control is or will be required, the supervisor will summon a command officer to the scene. Once on the scene, the command officer will direct all police action and authorize the use of weapons, tools, or tactics needed to resolve the situation. The approval of a supervisor is required any time chemical irritant is used against a crowd, absent exigent circumstances.

Use of force (including the beanbag shotgun, the 40mm foam round and the PepperBall launcher) as well as the use of chemical irritant during periods of civil unrest or for crowd management is restricted. A command officer must be present and must authorize the deployment of these devices, absent exigent circumstances.

Command officers must give verbal notice prior to deploying these devices into a crowd unless it would present a danger to the officer or others to give such a warning.

Any deployment of the beanbag shotgun, 40mm foam round, or PepperBall launcher during crowd management/control requires:

- Specific targeting of a subject by the officer.
- Under no circumstances should any of these devices be deployed into a crowd without first identifying a specific target that represents an imminent risk of death or physical injury to the officer or others.
- The officer must be reasonably sure that the weapons will not strike other individuals in the crowd who pose no threat of violence.

If demonstrators or protesters are in a place they have a legal right to be and are conducting themselves in a non-violent and lawful manner, an officer cannot make their conduct criminal by ordering them to disperse and arresting them if they refuse.

Information:

Beanbag shotgun and 40mm foam rounds: The beanbag shotgun and 40mm foam rounds are impact projectile devices that offer a less lethal alternative for subduing or incapacitating a subject to prevent imminent physical harm, while maintaining officer safety.

These types of police tools have been designed for law enforcement to assist in resolving situations which could otherwise result in the use of deadly force.

They are designed to enable officers to subdue or incapacitate a subject while preventing imminent physical harm to the officer or another person due to the ability to maintain greater distance between officers and the subject. Most of the time these tools are used when a subject is armed with, or simulating the possession of, a potentially deadly instrument. These subjects are often emotionally disturbed, intoxicated, or suicidal. These tools are designed to de-escalate the deadly force potential and allow the subject to be controlled with a lower level of force.

Use of these types of tools is reasonable in situations when allowing the subject to leave would pose an imminent continuing threat to others, including the subject.

These types of impact projectiles may not be used to prevent theft or minor vandalism.

Beanbag shotgun and 40mm foam rounds may only be used to subdue or incapacitate a subject to prevent imminent physical harm. In certain circumstances, it may be inappropriate to use these impact projectile tools, even if the only alternative is to allow the subject to escape. Officers must consider the severity of the crime, whether the subject poses an immediate threat of imminent physical harm to officers or other persons, and whether the subject is actively resisting arrest.

Chemical irritant: Chemical irritant offers a non-lethal alternative for controlling, subduing, or apprehending a suspect(s). Chemical irritant leaves an invisible ultraviolet, light-sensitive dye on an individual, which can aid in identification.

The use of chemical irritant, including the use of chemical irritant against a crowd or a group of individuals is only permitted in those cases in which such force is necessary to protect the officer, the subject, or another party from physical harm; or is necessary to effect the arrest of an actively resisting subject; or prevent the escape of that subject.

Chemical irritant or the X26 Taser (in the drive stun mode) is the primary response to prevent persons from swallowing evidence or contraband. The use of chemical irritant or the X26 Taser (in the drive stun mode) on an individual attempting to swallow evidence or contraband is only permitted when:

- There is a clear indication that the object or substance in the subject's mouth is contraband.
- There are exigent circumstances such as the imminent destruction of evidence or medical emergency.
- The officer has issued verbal commands to spit out any contraband and the subject refuses to comply.

Personnel may only use chemical irritant to control a resisting subject when verbal commands and other techniques that do not require the use of force would be ineffective or where issuing verbal commands would present a danger to the officer or others.

A verbal warning must be issued to the subject that chemical irritant will be used prior to the use of chemical irritant unless it would present a danger to the officers or others to issue such a warning. When feasible, the officer will defer using chemical irritant for a reasonable time to allow the subject to comply with the warning. Chemical irritant should only be aimed at the subject's face and upper torso.

Monadnock PR-24/Auto-Lock batons: Monadnock PR-24 and Auto-Lock batons are impact tools that offer a less lethal method for subduing and apprehending violent and/or actively resisting subjects. Compared to empty hand counter strikes, the baton is less likely to cause injury to the officer and provides added distance from the subject. Officers should target center mass of a subject's torso, arms, and legs, and avoid the subject's head, throat, neck, heart, and groin, unless threatened with serious physical harm.

PepperBall: The PepperBall launcher is a non-lethal tool which provides another alternative to assist in apprehending violent and/or actively resisting individuals while maintaining officer safety. This impact and chemical irritant device is capable of incapacitating subjects, thereby reducing their ability to continue aggressive action.

X26 Taser: The X26 Taser is an electronic control device that is a non-lethal force alternative used to assist officers in the performance of their duties. The X26 Taser is designed to temporarily immobilize a non-compliant, violent or potentially violent subject. It generates electricity in a small, hand-held, battery operated unit about the size of a handgun.

When properly used, the X26 Taser generates an electrical current that dominates the existing neuromuscular and sensory nervous system. Subjects become physically incapacitated and unable to control muscular movement, allowing officers to gain control.

The X26 Taser may be used in situations where time and conditions permit. It can be an extremely effective control device for close range incapacitation. When deploying a cartridge from the X26 Taser, it should never be aimed at the subject's head, neck, eyes, or groin. When deployed in the drive stun mode, the neck and groin areas are acceptable targets. Only officers successfully completing the Department's X26 Taser Training Program will use it.

Each X26 Taser has an internal tracking chip. This chip will store the time and date of the last 2000 times the trigger was engaged on the X26 Taser. The information stored in the data chip can be retrieved by supervisors connecting to the data port on the rear of the weapon and downloading the information into our current computer system.

Every three months (January 1, April 1, July 1, October 1), supervisors are responsible for downloading the data stored on the X26 Taser chip of their personnel for the previous three-month period. The downloaded information will be stored in a file at the officer's district/section/unit and also in the "Taser_Downloads" folder located on the H: drive. The instructions for electronically saving the downloaded data can be accessed by opening the PDF file titled, "Taser_Download instructions" located in the "Taser_Downloads" folder on the H: drive. District/section commanders will ensure a supervisor reviews each quarterly download for activations that do not appear to be consistent with daily spark tests or previously documented use of force incidents.

If Employee Tracking Solution (ETS) is down due to maintenance or mechanical problems, supervisors should document a use of force incident on the appropriate form on the H: drive. Supervisors should complete a draft copy of the use of force report and fax it to the required units. Supervisors should then retain the draft document until ETS is operational at which point the information from the draft document should be entered into ETS and processed according to this procedure.

The Police Chief has authorized a Use of Force Review Board to conduct a comprehensive review of the following use of force incidents:

- a use of force resulting in hospitalization or serious injury to a subject or police officer involved in a use of force incident;
- a use of force that includes a citizen's complaint of unnecessary or excessive force by an officer;
- or any use of force incident recommended for review by a district/section/unit commander and approved by the Police Chief.

Use of force incidents involving the discharge of firearms by police are not included in this process and are addressed by the Firearms Discharge Board (Procedure 12.550). Uses of force involving beanbag and 40mm foam round discharges are reviewable by the Use of Force Review Board.

Use of Force Review Board Members consist of the affected district/section commander, one captain from Investigations or Patrol Bureau (rotating assignment), the Training Section Commander, the Inspections Section Commander, and a bureau commander (rotating assignment).

The Internal Investigations Section (IIS) will coordinate Use of Force Review Board action and will schedule Review Board meetings and provide all documentation to board members on cases assigned by the Police Chief.

The bureau commander will chair the Review Board meetings. The Review Board will prepare a final report to the Police Chief containing a description of the incident including all uses of force, a summary and analysis of all relevant evidence, proposed findings, and analysis to support those findings.

The Review Board will determine whether all uses of force during the encounter were consistent with Department policy and training, whether the involved officers employed proper tactics, and whether lesser force alternatives were reasonably available.

Policy:

Cincinnati Police Officers must recognize and respect the value and dignity of every person.

In vesting officers with the lawful authority to use force to protect the public's welfare, a careful balancing of all human interests is required.

Courtesy in all public contacts encourages understanding and cooperation. The most desirable method for effecting an arrest is where a suspect complies with simple directions given by an officer.

When officers are confronted with a situation where control is required to effect an arrest or protect the public's safety, officers should attempt to achieve control through advice, warnings, and persuasion.

The suspect should be allowed to submit to arrest before force is used unless this causes unnecessary danger to the officer or others.

When officers have a right to make an arrest, they may use whatever force is reasonably necessary to apprehend the offender or effect the arrest, and no more. Just as officers must be prepared to respond appropriately to rising levels of resistance, they must likewise be prepared to immediately de-escalate the use of force as the subject de-escalates or comes under police control.

Officers must avoid using unnecessary violence. Their privilege to use force is not limited to that amount of force necessary to protect themselves or others, but extends to that amount reasonably necessary to enable them to effect the arrest of a resistant subject.

Force situations often do not allow for an ordinal progression up a continuum of force and officers must be ready to escalate or de-escalate as the situation evolves.

Disengagement is a reasonable option in consideration of officer safety and the necessity to apprehend immediately. Disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, or calling in specialized units may be an appropriate response to a situation and should be considered.

Force options may be used simultaneously, for instance, combining verbal commands with use of chemical irritant. The officer must choose the necessary response based on law, department policy, training, and experience. The officer must exercise proper use of force decision making, which means the use of reasonable force, including proper tactics, and de-escalation techniques.

All members have a duty to ensure that the use of force and any citizen allegation of excessive force are reported to the Police Department. Whenever employees use deadly force, force, hard hand tactics, chemical irritant, the X26 Taser; or confront resistance that results in an injury or complaint of injury to a citizen; or have knowledge of any of the above; or are aware of a citizen complaint of excessive force, they will immediately notify a supervisor. The supervisor or command officer investigating the incident must be of at least the next higher rank than the officer(s) who used force.

The only exception is when a lieutenant uses force and there is no captain or above working, but an acting Night Chief (lieutenant) is available. In this case, the acting Night Chief can conduct the investigation.

Officers who use excessive force will be subject to discipline, possible criminal prosecution, and/or civil liability.

Following any use of force resulting in a citizen's injury, officers will ensure appropriate first aid is rendered immediately once the incident scene is stabilized.

Use of Force Continuum

SUBJECT RESISTANCE:	FORCE OPTIONS:	OFFICER/SUBJECT FACTORS:
<p>Compliant/Cooperative Subject complies with verbal commands and other directions.</p> <p>Uncooperative Subject fails to respond to verbal commands or other directions.</p> <p>Active Resistance Subject is making physically evasive movements to defeat the officer's attempt at control, including bracing, tensing, or pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.</p> <p>Assault or Threat of Assault Subject assumes fighting stance, charges, strikes or kicks an officer or verbally or physically indicates an intention to commit an assault combined with the subject's capability to assault.</p> <p>Life Threatening Assault or Assault Likely to Cause Serious Physical Harm Subject commits an attack using an object, a weapon, or an empty hand assault, wherein the officer reasonably believes the assault will result in serious physical harm and/or death.</p>	<p>Officer presence</p> <p>Verbal skills</p> <p>X26 Taser/Chemical irritant</p> <p>Escort techniques</p> <p>Balance displacement</p> <p>Hard hands (pressure points/strikes)</p> <p>Monadnock PR-24/Auto-Lock batons</p> <p>PepperBall launcher (Non-lethal)</p> <p>Beanbag shotgun (Less than lethal)</p> <p>40mm foam round (Less than lethal)</p> <p>Deadly force</p>	<p>Physical size</p> <p>Influence of alcohol or drugs on subject</p> <p>Subject's mental capacity or impairment</p> <p>Multiple suspects</p>
		<p>SPECIAL CIRCUMSTANCES:</p> <p>Environmental factors</p> <p>Distance from subject</p> <p>Officer injury exhaustion</p> <p>Proximity of weapon</p> <p>Officer on ground</p> <p>Special knowledge</p> <p>Crime involved</p> <p>History/knowledge of subject</p>

Each force situation is unique and this continuum is intended only as an illustration of the various force options that are available to an officer facing a given level of subject resistance. This continuum is not intended to preclude a force option when that option would not exceed the amount of force reasonably necessary to affect a lawful arrest (Graham v. Connor, 490 U.S. 386 (1989)). Good judgment and the circumstance of each situation will dictate the level on the continuum of force at which an officer will start. Depending on the circumstances, officers may find it necessary to escalate and de-escalate the use of force by progressing up and down the force continuum. It is not the intent of this continuum to require officers to try each of the options before moving to the next, as long as the level of force used is reasonable under the circumstances. Disengagement, area containment, surveillance, waiting out a suspect, summoning reinforcements, or calling in specialized units may be an appropriate response to a situation.

Procedure:**A. Use of the X26 Taser**

1. Use the X26 Taser to control actively resisting subjects, aggressive non-compliant subjects, or violent or potentially violent subjects. Give the subject a verbal warning that the Taser is going to be deployed unless it would present a danger to the officer.
 - a. Officers should avoid using the X26 Taser on obviously pregnant females and those individuals under the age of 7 or over the age of 70 due to the potential for these individuals to fall when incapacitated by the Taser, unless the encounter rises to the level of a deadly force situation.
 - b. Officers should avoid using the X26 Taser on individuals who are on an elevated surface unless the encounter rises to the level of a deadly force situation.
2. Officers should, if possible, obtain backup before using the X26 Taser to control the subject.
 - a. Deploy personnel in such a manner that will enable them to use other means to subdue the subject if the X26 Taser is ineffective.
 - b. Officers will use caution and avoid standing near the subject.
3. Depressing the trigger on the X26 Taser will propel two darts from the attached cartridge. Once the X26 Taser is fired it will automatically cycle for five seconds. The officer can turn it off before the five second cycle stops. However, it is recommended that officers let the X26 Taser cycle for the full five seconds to maximize its effectiveness. Officers should give commands to the suspect and attempt to gain compliance.
 - a. It is necessary for both darts in a cartridge to hit some part of the suspect's clothing or body for total incapacitation. However, if only one dart penetrates the subject, the X26 Taser is only partially effective. Should this occur and the subject continues to act aggressively, place the X26 Taser against the subject's body to complete the circuit, causing complete incapacitation.
 - b. The X26 Taser has a red dot laser and a built in flashlight that activates as soon as the X26 Taser is turned on. Both of these features can be deactivated, if desired.
4. If a first shot does not make contact or is ineffective, the officer may reload and attempt a second shot. If the X26 Taser deployments do not make contact or are ineffective, it may be used in the drive stun mode. The X26 Taser can operate in the drive stun mode with or without the fired cartridge attached. You cannot use the X26 Taser in the drive stun mode on the neck or groin area with a non-fired cartridge attached to the Taser.

- a. While operating the X26 Taser in the drive stun mode, the carotid/brachial, groin, and common peroneal nerve are the preferred target areas of the body. A drive stun is described as pushing the X26 Taser aggressively against the subject's body while pulling the trigger. This will deliver a shock to that area of the body. A drive stun is intended to gain compliance from actively resisting subjects, aggressive non-compliant subjects, violent or potentially violent subjects, and persons attempting to swallow evidence or contraband.
 - b. Due to the high voltage electronic spark of the X26 Taser, **never fire the X26 Taser near flammable materials (such as chemical irritant with an alcohol-based propellant, gasoline, kerosene, or in a natural gas environment).**
 - c. After an officer has fired an X26 Taser cartridge, a new cartridge will be issued to the officer by their immediate supervisor.
- 5. When possible, avoid prolonged, extended, uninterrupted discharges or extensive multiple discharges.
 - a. Use of the Taser should be combined with physical restraint techniques to minimize the total duration of the struggle and Taser use.
 - 1) Additional officers on the scene of a Taser deployment can attempt to restrain and handcuff a subject during an active Taser cycle.
 - 2) Officers should transition to a different force option if multiple Taser deployments fail to gain compliance or continued Taser applications are not making sufficient progress toward gaining compliance.
- 6. Discharging the X26 Taser at Animals
 - a. The X26 Taser is an effective tool for stopping the aggressive behavior of wild or potentially dangerous animals. The X26 Taser is especially effective for vicious and/or dangerous dogs.
 - b. Officers using a Taser on an animal may need to adjust their aim to ensure contact is made with both probes.
- 7. Medical Treatment
 - a. Officers will obtain appropriate medical treatment for suspects when necessary. After successful X26 Taser deployment, request Cincinnati Fire Department (CFD) respond to evaluate the subject.
 - b. Officers may remove darts embedded in a subject's skin using the appropriate technique provided the darts are not embedded in soft body tissue, i.e., genitals, breast tissue, or any area above the collar bone.

- 1) If the darts are embedded in the soft body tissue described above, transport the subject to University Hospital for treatment and dart removal.
- 2) Used X26 Taser cartridges and darts are considered a biohazard. Place the used cartridge and darts in a biohazard receptacle at a fire station or hospital.

B. Use of Chemical Irritant

1. Unless it would present a danger to the officer or another, a verbal warning to the individual that chemical irritant will be used must be issued prior to use.
2. When feasible, officers will defer using the chemical irritant a reasonable time to allow the individual to comply with the verbal warning.
3. Officers may only use chemical irritant on a restrained individual when the restrained individual is likely to escape or suffer injury; or another person is likely to suffer injury, absent the use of the chemical irritant.
4. If it is necessary to use chemical irritant on a violent prisoner who is handcuffed and in the rear seat of the police vehicle, officers will not open the rear doors of the police vehicle to spray the prisoner. Instead, officers will spray the prisoner through the protective screen.
 - a. If the vehicle is equipped with a Plexiglas partition, officers can either slide the partition to an open position and spray the prisoner through the opening or spray the prisoner through the rear door window nearest the prisoner's face.
 - b. This should be rare and used only after officers issue a verbal warning and when other uses of force would be ineffective.
5. When spraying chemical irritant, target an individual's face and upper torso. If possible, stay five to ten feet away from an individual and administer the chemical irritant in 3 second bursts.
6. Officers may not keep a sprayed individual in a face-down position any longer than necessary to handcuff or end the threat of harm or escape.
7. Absent exigent circumstances, officers will offer to decontaminate every sprayed individual within 20 minutes of the use of chemical irritant.
 - a. Expose individuals sprayed with chemical irritant to fresh air. Give them an opportunity to rinse their face with plenty of clear, cool water or the use of a decontamination wipe.
 - b. Individuals should not rub or hold their faces, or use any oils, creams, or ointments.

8. Officers are required to request medical assistance for sprayed individuals in the following circumstances:
 - a. When the individual complains of continued effects after having been decontaminated.
 - b. The individual indicates that they have a pre-existing medical condition that may be aggravated by the chemical irritant, e.g., asthma, emphysema, bronchitis, heart ailment, etc.
 - c. Immediately request a supervisor and Cincinnati Fire Department (CFD) respond to the scene if a person is suspected of putting in their mouth, swallowing, or attempting to swallow any substance or item suspected as capable of causing physical harm, injury, or death.
 - 1) If necessary, CFD will transport the suspect for immediate medical treatment. If CFD requests the Police Department transport the suspect, officers will:
 - a) Immediately transport to University Hospital any person 13 years of age and older.
 - b) Immediately transport to Children's Hospital any person 12 years of age and under.

C. Use of PepperBall

1. PepperBall launchers will be assigned to the districts at the discretion of the Police Chief.
2. The PepperBall round consists of a small, hard, plastic sphere containing OC pepper powder.
3. The PepperBall launcher is a semi-automatic, shoulder-mounted, high capacity weapon powered by compressed air.
 - a. Each district will be assigned one SCBA compressed air tank and a PepperBall fill adapter.
 - b. SCBA tanks can be refilled by the Cincinnati Fire Department at their facility located on 5th Street at Central Avenue.
4. Only supervisors and officers trained in the use of PepperBall launchers are permitted to use the weapons.
 - a. The presence of a second officer is highly recommended in the event the officer using the PepperBall launcher encounters lethal resistance.

- b. If serious injury requiring hospitalization occurs from the use of the PepperBall, follow the notification process for shots fired as outlined in Procedure 12.550.
 - 5. When using the PepperBall launcher, aim at center mass. Avoid the head, neck, and groin areas, if possible. The effective range of the PepperBall is 0 to 30 feet for targeting individuals and up to 100 feet for area saturation.
 - a. Generally, four to ten rounds should be deployed at a subject. More rounds may be utilized, if in the opinion of the officer, the additional rounds will assist in gaining compliance of the individual.
 - b. Heavy clothing can hinder the effectiveness of the PepperBall rounds. If a subject is wearing heavy clothing, consider targeting the legs.
 - c. Subjects struck with PepperBall rounds often lower their head and turn away from the source of impact. It is important to anticipate this reaction when employing PepperBall rounds.
 - d. Decontamination for individuals exposed to PepperBall OC powder is fresh air and clear, cool water.
 - 6. PepperBall rounds can be used to saturate an area with OC powder by aiming the rounds at solid objects such as buildings, walls, or the ground.
 - 7. After using the PepperBall launcher, and after the individual is under control, inform onlookers that the PepperBall launcher is a non-lethal alternative designed to apprehend individuals without causing serious injury.
 - a. Officers are exempt from the notification requirements during incidents involving civil unrest.
- D. Use of Beanbag Shotgun
- 1. Two supervisors' cars and ten beat cars in each district are equipped with beanbag shotguns.
 - a. Supervisors are responsible for loading beanbag shotguns.
 - b. Never load regular shotgun ammunition into beanbag shotguns or vice versa.
 - 2. A beanbag shotgun shell is a standard 2 3/4 inch, 12 gauge shotgun shell with a transparent hull.
 - a. Stocks on beanbag shotguns are orange and clearly labeled as "less-lethal".

3. Beanbag shotguns will be carried with four rounds loaded in the magazine tube and no round in the chamber. They will be stored de-cocked with the safety on, in secured boxes in the trunks of assigned vehicles.
 - a. A breakaway seal will be on each box.
 - b. Do not remove and inspect the beanbag shotgun at the beginning of each shift.
 - 1) Open the trunk and check the seal. If the seal is intact, the weapon is ready to be used.
 - 2) If the seal is broken, call for a supervisor to inspect the weapon and reseal the box.
4. If the shotgun is removed during the shift, a supervisor must inspect the shotgun and reseal it in the box.
5. Supervisors will ensure beanbag shotguns are evenly disbursed geographically throughout each district.
6. Neither permission from, nor the presence of, a supervisor is required for officers to use beanbag shotguns, except in crowd control situations.
 - a. The presence of a second officer is highly recommended in the event the officer using the beanbag shotgun encounters lethal resistance.
7. Where the distance between the officer and the target makes it practical, verbal warnings will be given prior to use, absent exigent circumstances. When feasible, officers will allow a reasonable time between the warning and use of the beanbag shotgun.
8. When using a beanbag shotgun, the recommended distance is no less than 20 feet and no more than 75 feet from a suspect. Beanbag rounds have an optimal effective range of 20 to 50 feet with a maximum effective range of 75 feet.
 - a. Using a beanbag shotgun within 20 feet of an individual increases the chance of serious injury. In cases involving self-defense, defense of another, or a situation where the round is used as an alternative to deadly force when deadly force would be appropriate, the use of the beanbag round at a distance less than 20 feet is acceptable.
 - b. If serious injury requiring hospitalization occurs from using a beanbag shotgun, follow the notification process for shots fired as outlined in Procedure 12.550, Discharging of Firearms by Police Personnel.

9. When using a beanbag shotgun, target a specific part of the body. Avoid the head, neck, heart, and groin areas, if possible.
 - a. Take any individual struck with a beanbag round to University Hospital for medical evaluation.
 10. While multiple beanbag rounds may be expended as necessary, no more than two beanbag shotguns should be simultaneously deployed on an individual.
 11. If four rounds prove to be ineffective, officers need to consider another option.
 12. After using a beanbag shotgun, and after an individual is under control, notify onlookers that a beanbag shotgun, not a regular shotgun, was used. Inform the onlookers that the beanbag shotgun is a less lethal alternative designed to apprehend individuals without causing serious injury.
 - a. Officers are exempt from the notification requirements during incidents involving civil unrest.
- E. Use of 40mm Foam Round
1. 40mm foam round launchers are assigned to SWAT.
 2. The 40mm foam round consists of a soft rubber sponged nose attached to a hard plastic carrier.
 3. The 40mm foam round launcher is a single shot, shoulder-mounted weapon.
 - a. A holographic sight is attached to the launcher to assist with aiming and shot placement.
 4. Only SWAT officers trained in the use of the 40mm foam round launcher are permitted to use the weapon.
 - a. The presence of a second officer is highly recommended in the event the officer using the 40mm foam round launcher encounters lethal resistance.
 - b. Where the distance between the officer and the target makes it practical, verbal warnings will be given prior to use, absent exigent circumstances. When feasible, officers will allow a reasonable time between the warning and use of the foam round.
 - c. If serious injury requiring hospitalization occurs from using a 40mm foam round, follow the notification process for shots fired as outlined in Procedure 12.550.

5. When using the 40mm foam round, target a specific part of the body. Avoid the head, neck, heart, and groin areas, if possible. The 40mm foam round will prove most successful for incapacitation when used within its optimal energy range of approximately 10 to 75 feet, although it may be used in situations from 5 to 120 feet.
 - a. Take an individual struck with a 40mm foam round to University Hospital for medical evaluation.
6. If four rounds prove to be ineffective, officers need to consider another option.
7. After using the 40mm foam round launcher, and after an individual is under control, inform onlookers that the 40mm foam round is a less lethal alternative designed to apprehend individuals without causing serious injury.
 - a. Officers are exempt from the notification requirements during incidents involving civil unrest.

Reporting Use of Force

Force used	Reporting requirement
Deployment of police canine (no bite).	Form 18C, explaining circumstances that led to the deployment.
Escorting or handcuffing a person, with no or minimal resistance.	No special reporting required other than the narrative of the arrest report.
“Hard hands” use of force by means of leverage displacement, joint manipulation, pain compliance, or pressure point control tactics without injury or complaint.	The arresting officer(s) are required to notify a supervisor and document a narrative account of the subject’s form(s) of resistance and the officer’s specific defensive tactic used to overcome that resistance in the narrative of the arrest report and complete an officer’s report of non-compliant suspect/arrestee form report to be reviewed and approved by a supervisor. The use of force report will require the officer to identify the events leading up to the use of force and the supervisor will be required to evaluate the tactics used by the officer.
“Hard hands” use of force with injury or complaint of injury.	The arresting officer(s) are required to notify a supervisor. The supervisor’s report will include the following information in the narrative portion of the report: description of the events leading to the use of force; description of the subject’s resistance; description of the use of force by police to overcome resistance, including a description of all empty hand controls used by the officer; supervisor’s evaluation of the propriety of the initial contact and the propriety of the use of force; supervisor’s evaluation of a foot pursuit if applicable.
Force using any physical strike or instrumental contact with a person; chemical irritant; choke holds; deployment of a canine resulting in a bite; beanbag shotgun and 40mm foam rounds; X26 Taser; or PepperBall.	Supervisors will be called to the scene and conduct a supervisory investigation including the supervisor’s narrative description of the events preceding the use of force, the officer(s)’ description of events, and audio taped statements of all witnesses including the officer(s), subject(s), medical treating personnel (if practicable), and third-parties. For chemical irritant use and X26 Taser deployment, taped statements are only required if the use occurs after handcuffing.
All serious uses of force (as defined in the definitions section) and canine bites which cause serious injury or hospital admission.	CIS and IIS will respond to the scene and investigate.

F. Reporting a Use of Force

1. The investigating supervisor will immediately notify the district/section/unit OIC (officer in charge), or the Night Chief, if on duty. The use of force will not be investigated by any officer who used force or chemical irritant, whose conduct led to an injury to a prisoner, or who authorized the conduct that led to the reportable incident.
 - a. If none of the above are on duty, ensure the next command officer who comes on duty is notified.
 - b. Contact the Internal Investigations Section (IIS) Commander, the Criminal Investigation Section (CIS) Commander, and the officer's district/section/unit commander for all serious uses of force and all canine bites which cause serious injury or hospital admission.
 - c. Contact the IIS Commander and the officer's district/section/unit commander if more than the necessary amount of force appears to have been used, or the injuries are inconsistent with the reported force.
2. The supervisor will conduct a preliminary fact finding interview of witnesses and officers at the scene and search for evidentiary materials. The supervisor will then conduct a thorough investigation and evaluate the propriety of the action taken. The supervisor or command officer investigating the incident must be of at least the next higher rank than the officer(s) who used force. The only exception is when a lieutenant uses force and there is no captain or above working, but an acting Night Chief (lieutenant) is available. In this case, the acting Night Chief can conduct the investigation.
 - a. Other than a use of chemical irritant or Taser, a supervisor will ensure neutral officers transport the prisoner to the appropriate facility, if applicable.
 - 1) Officers may remove a prisoner to a safe location to prevent an escalation of the incident.
 - b. Detail supervisors will be responsible for the investigation of a use of force involving officers under their supervision.
 - c. A supervisor in the district where the force occurred will investigate and report incidents when the officer is off duty.
 - 1) If a use of force occurs outside the city limits, a supervisor from the closest district will investigate the incident.
 - d. If an officer is involved in a use of force outside a 50-mile radius of the city, the officer will immediately contact a Police Communications Section supervisor and notify him of the use of force. The officer will leave a phone number where he can be contacted.

- 1) PCS will contact the involved officer's assigned district/section/unit commander and notify him of the incident.
 - 2) The district/section/unit commander will call the officer to determine the correct course of action.
3. After the preliminary fact finding interview, tape record all further interviews with the arrested, civilian witnesses, and police officer witnesses in incidents involving canine bites or the physical use of force. Attach the interview tapes to the original report.
 - a. The tape recorded interview will contain the following information:
 - 1) Date, time, and location of interview.
 - 2) Interviewer's name and title.
 - 3) Reason for the interview, e.g., "I am investigating the arrest of John Doe which took place at 1012 Ludlow Avenue".
 - 4) Identity of the person interviewed.
 - 5) Explanation of what happened with specific reference to how the injury occurred. Do not ask leading or suggestive questions.
 - b. If more information is needed, ask the appropriate questions.
 - c. Upon completion, conclude the taped interview by identifying yourself, the person interviewed, and state the time; e.g., "This is Sergeant Neudigate concluding this interview with Mr. John Doe. The time is 2000 hours".
4. The investigating supervisor will interview and examine the subject of the use of force. Be sure the arrested is fully aware of the supervisor's rank and purpose of the interview. The supervisor is responsible for examining the subject for any injuries and is responsible to ensure that any necessary medical attention is secured.
 - a. The investigating supervisor will take Polaroid photographs of the subject. Take specific photos of any injury, or claimed injury, to the subject.
 - 1) The investigating supervisor will record his name, badge number, date, time, and name of the subject on the photographs. Attach the photographs to the original report.
 - b. Anytime the subject of a use of force goes to a hospital, a supervisor will respond and:
 - 1) Ask permission of the medical staff to view the arrested to note the total extent of the injuries.

- 2) Interview the arrested, tape recording the interview.
 - 3) Interview the treating physician and include the diagnosis in the report. Tape record the interview if the physician permits it.
 - a) If the treating physician cannot release a diagnosis of the subject's injuries due to doctor-patient confidentiality, the supervisor will note it in the report.
 - 4) If possible, obtain a hospital and Department release for medical records from the arrested. Attach the release to the original investigative report.
 - 5) Note on the Form 18F, Supervisor's Use of Force Investigation Report, if the subject refuses treatment at the hospital.
5. If the arrested is seriously injured or admitted to a hospital, immediately notify the district/section/unit commander of the involved officer, the IIS Commander, the Criminal Investigation Section (CIS) Commander, and the Night Chief/Duty Officer, if on duty.
- a. The Homicide Unit and IIS will conduct an investigation with the assistance of the affected district/section/unit when the injury is a result of the use of force.
 - 1) The district/section/unit commander will coordinate the investigation in the absence of an IIS investigator.
 - a) The CIS and IIS Commanders will forward all findings and reports to the Police Chief's Office through command channels.
 - b) When IIS or the Homicide Unit is conducting the use of force investigation, the unit responsible for the primary investigation will complete a Form 18F.
 - b. If the arrested is admitted to a hospital for psychiatric evaluation only without serious injury (PES, etc.), the above notifications are not required.
 - c. If the arrested is admitted to a hospital for observation purposes only, notify the affected bureau commander and the Duty Officer who will determine whether CIS and IIS will be notified.
 - d. If the arrested has ingested contraband, which results in either seizures, convulsions, loss of consciousness, or other serious medical conditions, immediately notify the affected bureau commander and the Duty Officer who will determine whether CIS and IIS will be notified.

6. The investigating supervisor will complete an appropriate Form 18F in the Employee Tracking Solution (ETS).
 - a. Ensure all blocks are completed. Multiple blocks may be checked, as applicable, in the following defined categories:
 - Ceased All Movement: Subject fails to comply with verbal commands from an officer to submit to arrest and abruptly stops all movement. This is often a behavioral cue that the subject is forming a plan to resist the officer.
 - Conspicuously Ignoring: Subject fails to comply with verbal commands from an officer to submit to arrest and fails to respond to questions or orders, refuses to acknowledge the officer's presence, engages in other activities, or attempts to leave the area.
 - Resistive Tension: Subject fails to comply with verbal commands from an officer to submit to arrest and makes body rigid by tensing the muscles. This rigidity can be full body resistance or a particular body part. The goal of the action is to prevent control by means of superior strength.
 - Exaggerated Movement: Subject fails to comply with verbal commands from an officer to submit to arrest and exhibits rapid body movements, such as flailing of the arms, excited pacing, bouncing or similar actions. Actions are often behavioral cues indicating preparation for physical exertion to avoid having the officer take control.
 - Excessive Emotional Tension: Subject fails to comply with verbal commands from an officer to submit to arrest and is belligerent, yelling or argumentative towards the officer or another person. Actions are often behavioral cues indicating preparation for physical exertion to avoid having the officer take control.
 - Combative/Assaultive: Subject fails to comply with verbal commands from an officer to submit to arrest and attempts, threatens or succeeds in physically assaulting an officer or another person by means of body weapons (hands, feet, kicks, punches, elbow strikes, spitting, biting, etc.).
 - Armed: Subject fails to comply with verbal commands from an officer to submit to arrest and displays or claims to possess a weapon, threatens to obtain or use a weapon, makes overt actions consistent with being armed, or is reported to be armed.
 - b. Include concise statements addressing corroboration or contradiction for each witness.

- c. Type a brief summary of the use of force incident on the Form 18 that includes the following information:
 - 1) Decision to arrest, including the basis for the stop and seizure.
 - 2) How the subject resisted arrest.
 - 3) Subject's resistive behavior.
 - 4) Officer's tactics and actions to counter resistance/assault.
 - 5) The supervisor's analysis of the propriety of the officer's use of force.
 - 6) A statement indicating that the subject of the use of force was interviewed as part of the investigation. Include the identity of the supervisor who conducted the interview.
- 7. If while investigating a use of force, an individual alleges excessive force, the investigating supervisor will complete a Form 648, Citizen Complaint or Information, and include it in the use of force case folder. The supervisor will investigate the complaint thoroughly while all participants and witnesses are present. If the original use of force does not require the investigation to be tape recorded, but there is an excessive force allegation in conjunction with the use of force, the supervisor will tape record the interview of the subject of the use of force. This is only required when an excessive force complaint accompanies a use of force investigation. The main focus of the interview should be the complaint allegation, not the use of force. Refer to Procedure 15.100, Citizen Complaints, for routing of the form.
- 8. The investigating supervisor will ensure the completion of and sign the Form 527, Arrest and Investigation Report, and Form 527A, Case and Bond Information Sheet, listing the prisoner's physical condition. The Form 527 will accompany the prisoner to Central Intake at the Hamilton County Justice Center.
- 9. The Form 18F will be work-flowed to the assigned district/section/unit commander through the chain of command.
 - a. Upon work-flowing the Form 18F, the investigating supervisor will use the "Add Notification" function to include the following units:
 - 1) Internal Investigations Section.
 - 2) Inspections Section.
 - 3) Patrol Bureau.

- b. If the Form 18F is not complete and the investigating supervisor needs to retain the document to complete their investigation, they should work-flow the document to themselves while still notifying the above listed units by the "Add Notification" function. **Do not** use the "Add Recipient" function.
 - 10. The district/section/unit commander will review the original report and complete a use of force supplement which will be attached to the appropriate use of force case folder in ETS. Within seven days, the district/section/unit commander will forward the taped statements and photos to the Police Chief's Office through the affected bureau commander in a sealed envelope.
 - a. Inspections Section will file the photographs and tapes.
 - 11. If an additional investigation is required, note it on the supplement.
 - 12. The investigating supervisor will make a blotter entry describing the incident and action taken.
 - 13. Following each use of force investigation conducted by a supervising officer, an officer at the rank of lieutenant or higher will review the investigation, identify any discrepancies, and require the supervising officer who conducted the investigation to correct any such deficiencies. Appropriate non-disciplinary corrective action and/or disciplinary action will be taken when a supervising officer fails to conduct a thorough investigation or fails to properly adjudicate an incident, or when a reviewing lieutenant neglects to recommend appropriate corrective action.
- G. Reporting Process for Use of Taser/Beanbag Shotgun/40mm Foam Round/PepperBall Launcher
- 1. Supervisors must complete a detailed Form 18TBFP, Use of Taser/Beanbag/40mm Foam Round/PepperBall, in ETS after any officer uses one of the above tools. The Form 18TBFP must be completed whether or not an individual is struck with a beanbag, 40mm, PepperBall round, or Taser barb.
 - a. After each X26 Taser deployment, the investigating supervisor will retrieve the data stored on the X26 Taser data chip, print out the X26 Taser data port download and record the necessary information on the Form 18TBFP. The supervisor will then scan the data port download sheet into the computer and attach it to the appropriate use of force case folder in ETS.
 - b. Complete a Form 18T, Taser Silhouette Report, for X26 Taser use and attach it to the Form 18TBFP. Attach the electronic Form 18T to the appropriate use of force case folder in ETS.
 - 1) Report any accidental discharges on a Form 17 and route via the chain of command.

- 2) Report any discharges at an animal on a Form 18A, Weapons Discharge at an Animal, and route via the chain of command.
- c. Work-flow the report to the district/section/unit commander. After review, the district/section/unit commander will work-flow the original report to Inspections Section through the affected bureau commander.
 - 1) When work-flowing the Form 18TBFP, use the "Add Notification" function for the following units:
 - a) Inspections Section.
 - b) Patrol Bureau.
- d. No supplementary report is necessary unless requested by the Police Chief or bureau commander.
- e. The relief officer in charge is responsible for providing a media voice mail, as soon as possible after the incident, describing the incident and the use of the X26 Taser/beanbag shotgun/40mm foam round/PepperBall launcher.
2. The investigating supervisor will make a blotter entry describing the incident and action taken.

H. Reporting Process for an Injury to Prisoner

1. Supervisors will complete a Form 18I, Injury to Prisoner, in ETS for any injury to the arrested not the result of the use of force, while under or just prior to police control, and as a result of police activity, including the ingestion of contraband.
 - a. In the event of an incident wherein the underlying police use of force meets the threshold that requires an officer to complete a Form 18NC, Noncompliant Suspect/Arrestee Report, to document the incident, and the subject is injured or complains of injury as a result of the force, the incident will be investigated by a supervisor as an injury to prisoner and documented on a Form 18I.
2. The narrative section of the Form 18I will be brief and concise, containing the information in the Reporting Use of Force chart. If the incident also involved the use of chemical irritant, the narrative must address the circumstances warranting chemical irritant usage as well as the circumstances of the injury.
3. Work-flow the Form 18I to the district/section/unit commander through the chain of command. Forward any original documents, photographs, or tapes.

- a. When work-flowing the Form 18I, "Add Notification" for the following units:
 - 1) Inspections Section.
 - 2) Patrol Bureau.
 - b. The district/section/unit commander will evaluate the propriety of the initial contact and the use of force and will note his findings on the Form 18I.
 - 4. The investigating supervisor will make a blotter entry describing the incident and action taken.
- I. Reporting Process for Use of Chemical Irritant
- 1. Supervisors will complete a Form 18CI in ETS when reporting the use of chemical irritant.
 - a. Work-flow the Form 18CI to the district/section/unit commander through the chain of command.
 - 1) Upon work-flowing the Form 18CI, use the "Add Notification" function for the following units:
 - a) Inspections Section.
 - b) Patrol Bureau.
 - b. The investigating supervisor will make a blotter entry describing the incident and action taken.
 - 2. After review, the district/section/unit commander will work-flow the report to Inspections Section through the affected bureau commander.
- J. Priority of Forms
- 1. If more than one act by an individual occurs, only one report is needed, e.g., use of force and a use of beanbag shotgun.
 - 2. Listed below is the order in which a report is made, with "a" being the highest priority:
 - a. Use of Force.
 - 1) Include X26 Taser/Beanbag Shotgun/40mm Foam Round/PepperBall information, if applicable.
 - 2) Include canine information, if applicable.

- b. X26 Taser/Beanbag Shotgun/40mm Foam Round/PepperBall.
 - 1) Include canine information, if applicable.
- c. Canine.
- d. Injury to Prisoner.
- e. Chemical Irritant.
- f. Noncompliant Suspect/Arrestee Report.

K. Documentation Needed for Each Form

- 1. Form 18F, Supervisor's Use of Force Investigation Report:
 - a. Taped statement(s).
 - b. Photos.
 - c. Form 527, Arrest and Investigation Report.
 - d. Computer Aided Dispatch (CAD) Incident History.
 - e. Medical release, if treated.
 - f. Summary of doctor's diagnosis, if treated.
- 2. Form 18TBFP, Use of Taser/Beanbag/40mm Foam Round/PepperBall:
 - a. Taped statement(s) (X26 Taser deployment is exempt from this requirement unless the subject was handcuffed at the time of use or unless there is a complaint of excessive force in conjunction with the use of force investigation).
 - b. Photos.
 - c. Form 527, Arrest and Investigation Report.
 - d. Computer Aided Dispatch (CAD) Incident History.
 - e. Medical release, if treated.
 - f. Summary of doctor's diagnosis, if treated.
 - g. X26 Taser data port download, if applicable.
 - h. Form 18T with the use of the X26 Taser.
 - i. MVR tape, if applicable.

3. Form 18C, Use of Canine:
 - a. Taped statement(s).
 - b. Photos.
 - c. Form 527, Arrest and Investigation Report.
 - d. Computer Aided Dispatch (CAD) Incident History.
 - e. Medical release, if treated.
 - f. Summary of doctor's diagnosis, if treated.
4. Form 18CI, Use of Chemical Irritant:
 - a. Short narrative.
 - b. Form 527, Arrest and Investigation Report.
 - c. Computer Aided Dispatch (CAD) Incident History.
 - d. Taped statement(s) only if the subject was handcuffed at the time or there is an excessive force complaint in conjunction with the use of force investigation.
5. Form 18I, Injury to Prisoner:
 - a. Photos.
 - b. Form 527, Arrest and Investigation Report.
 - c. Computer Aided Dispatch (CAD) Incident History.
 - d. Taped statement(s) only if there is an excessive force allegation in conjunction with the use of force investigation.
 - e. Brief, concise narrative to include information from the Reporting Use of Force chart.
 - f. Medical release, if treated.
 - g. Summary of doctor's diagnosis, if treated.
6. Form 18NC, Noncompliant Suspect/Arrestee Report:
 - a. Brief, concise narrative of resistance met and force used.
 - b. Form 527, Arrest and Investigation Report.
 - c. Computer Aided Dispatch (CAD) Incident History.
 - d. Supervisory review before end of tour.

- e. Copy for district files, original to Inspections Section.
 - f. Taped statement(s) only if there is an excessive force allegation in conjunction with the use of force investigation.
- 7. Place all original documents, photos, and tapes in the Use of Force Case Jacket with the routing label attached and forward to the district/section/unit commander.
- L. Responsibilities of Inspections Section to Insure Policy and Procedure Compliance and Implementation:
 - 1. Inspections Section will review, evaluate in writing, and submit for the Police Chief's approval all supervisor reported use of force, use of beanbag shotgun, 40mm foam round, PR-24/Auto-Lock baton, and all canine bites (except those causing serious injury or hospital admission).
 - a. Inspections Section is exempt from reviewing use of force cases assigned to the Use of Force Review Board.
 - 2. Inspections Section will review, evaluate, and submit for the Police Chief's approval all investigations of Taser or chemical irritant use on handcuffed individuals.
 - 3. Inspections Section will review all Forms 18NC for trends and training issues.